

JUN 16 1993

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In re Applications of) MM DOCKET NO. 93-125
)
Eldon F. Hestand, John C. McVey,)
and Michael S. Morris d/b/a)
LAND RUSH COMMUNICATIONS) File No. BPH-910705MK
)
ROBERT V. CLARK) File No. BPH-910708MD
)
For a Construction Permit for a)
New FM Station on Channel 273A at)
Arkansas City, Kansas)

To: Administrative Law Judge
Walter C. Miller

**MASS MEDIA BUREAU'S COMMENTS ON
JOINT REQUEST FOR APPROVAL OF SETTLEMENT AGREEMENT**

1. On May 25, 1993, Eldon F. Hestand, John C. McVey, and Michael S. Morris d/b/a Land Rush Communications ("Land Rush") and Robert V. Clark ("Clark") filed a Joint Request for Approval of Settlement Agreement ("Joint Request"). The Mass Media Bureau submits the following comments.

2. The Joint Request is accompanied by a settlement agreement which contemplates the grant of the Clark application and the dismissal of the Land Rush application. In consideration for the dismissal of the Land Rush application, Clark proposes to pay Land Rush the sum of \$6,725, which amount represents the legitimate and prudent expenses incurred by Land Rush in connection with the preparation, filing, and prosecution of its

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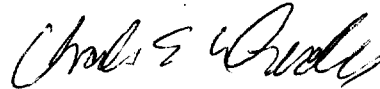
application. Land Rush provides proper documentation of such expenses.

3. Land Rush and Clark state that the settlement agreement would serve the public interest by hastening the inauguration of a new FM service in Arkansas City, Kansas. Both applicants also declare under penalty of perjury that their respective applications were not filed for the purpose of reaching or carrying out a settlement.

4. The Bureau submits that the Joint Request satisfies the requirements of § 73.3525 of the Commission's Rules, which implements § 311(c)(3) of the Communications Act of 1934, as amended. Specifically, a copy of the settlement agreement has been timely filed, and the applicants have established that approval of the agreement would serve the public interest and that neither application was filed for an improper purpose. Moreover, the amount of money that Clark proposes to pay Land Rush for the dismissal of its application does not exceed Land Rush's legitimate and prudent expenses. Furthermore, there are

application should be granted.

Respectfully submitted,
Roy J. Stewart
Chief, Mass Media Bureau



Charles E. Dziedzic
Chief, Hearing Branch



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Attorney
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June 16, 1993

CERTIFICATE OF SERVICE

I, Michelle C. Mebane, a secretary in the Hearing Branch, Mass Media Bureau, certify that I have, on this 16th day of June 1993, sent by regular United States mail, U.S. Government frank, copies of the foregoing, "Mass Media Bureau's Comments on Joint Request for Approval of Settlement Agreement" to:

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Michelle C. Mebane
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